

January 18, 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 "M" Street, N.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY MAIL BRANCH

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JAN 25 1993

RE: PETITION FOR RULEMAKING
SILVERTON, COLORADO

FCC MAIL ROOM

Dear Ms Searcy,

Herewith is the original and three (3) copies of a Petition for Rulemaking, seeking to delete FM Channel 257A at Silverton, Colorado.

Please date-stamp and return one (1) copy of this Petition to me in the prepaid self addressed envelope.

If you have any questions relating to the enclosed material, kindly contact the undersigned.

Respectfully,

Caren Lacy
Caren Lacy

Petitioner

1885 Ponder Hts. Drive

Colorado Springs, Colorado 80906

ENCLOSURES

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JAN 26 1993

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

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JAN 25 1993

FCC MAIL ROOM

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Assignments,)
FM Broadcast Stations.)
(Silverton, Colorado))

PETITION FOR RULEMAKING

Caren Lacy, (hereafter, Lacy) pursuant to Section 1.401(a) of the Rules respectfully requests that the Commission amend the Table of FM Assignments, Section 73.202(b), and delete Channel 257A (99.3 MHz) at Silverton, Colorado. In support of this request, Lacy submits as follows:

1. Silverton, Colorado is a community with a population of less than 1,000 persons, in a deep valley in the San Juan mountains of southwestern Colorado. Consistent with FM Assignment Policies and Procedures, 90 FCC 2d 88, 51 RR2d 807, 814 (1982), the Commission, in response to previous rulemaking petitions, has assigned three FM allotments to this community in addition to a Class IV AM facility. Only the AM and a companion FM have been licensed and have operated. Those two stations are now dark, the location of the licensee is unknown, and for over five years, a court appointed receiver has been unsuccessfully attempting to dispose of the licenses. There is currently no Silverton allocation in actual use.

2. One of the FM assignments at Silverton, Colorado is Channel

257A (99.3 mhz), with FCC reference coordinates of 37 48'42" North Latitude and 107 40'00" West Longitude.

3. On September 3, 1986, the Commission granted a construction permit for Channel 257A to San Juan Christian Broadcasting, with the file designation BPH-860221MU. The construction permit authorized the applicant .60 kilowatts at 176' AAT with coordinates of 37 48'18" North Latitude and 107 38'03" West Longitude. Call letters KVFC were subsequently assigned February 6, 1987.

4. San Juan Christian Broadcasting, did not, in fact construct the station as authorized and the FCC Construction Permit long ago expired. There is no record that any further indication of interest was ever submitted relating to the matter.

5. On January 25, 1991 the Commission allocated Channel 259C2 (99.7 mhz) to Durango, Colorado at the request of Caren Lacy, petitioner.

6. On February 27, 1991, Lacy submitted her application for a construction permit for Channel 259C2 (99.7 mhz) at Durango, Colorado, requesting a maximum service facility authorized pursuant to the appropriate class of service. Coordinates of the Lacy construction site are 37 19'59" North Latitude by 107 49'13 West Longitude. On May 12, 1992 the Commission granted Lacy's application and granted a construction permit to build the proposed station, assigning the Permit File No.: BPH-910227-MG.

7. The spacing requirements between Lacy's Channel 259C2

Durango allocation and the Silverton Channel 257A assignment are 54.5 km. The actual spacing from Lacy's application to the reference coordinates are 54.8 km, and spacing to the coordinates of the expired construction permit are 54.9 km.

8. Lacy has commissioned an engineering study which confirms that, except for the Silverton allocation, her facility could be constructed as a Class C1 station, rather than the Class C2 service now allocated and assigned to her. As a Class C1 station, Lacy would be afforded the opportunity to provide primary and secondary broadcast service to large areas and populations now unserved or underserved.

9. The referenced engineering study was also conducted to determine if other channel allotments would be possible in Silverton, Colorado. This was done to insure that Silverton, Colorado would not be denied service in the event future applicants wished to actually offer additional broadcast service to that community.

10. On October 19, 1992 the Commission received an application for one of the unused Silverton allotments, 279C2 (103.7 Mhz), which application has been assigned the file number BPH-921019MB. This application is currently pending.

11. In addition to the existing, but currently unused FM allotments of 297C (107.3 mhz) and 279C2 (103.7 mhz) in Silverton, Colorado, the following FM channels are available for possible assignment to that community, meeting all current requirements:

Channel 223A Channel 224A Channel 227A
Channel 238A Channel 273A

12. Accordingly, this petition may be granted, allowing Lacy to offer greater broadcast service than currently authorized, while affording Silverton a wide choice of allotments from which a future applicant may select.

13. Lacy affirms that she will promptly seek the amendment of Channel 259C2 to Channel 259C1 in Durango upon the deletion of the Silverton allocation as hereby proposed, and in addition will construct Channel 259C1 if granted to her.

WHEREFORE Lacy requests that the Commission issue a Notice of Proposed Rule Making approving the deletion of Channel 257A (99.3 mhz) at Silverton, Colorado. In the event a party files an opposition to this petition, stating an interest in a Silverton allocation, Lacy requests that one of the above listed available channels be substituted for Channel 257A at Silverton, Colorado.

Respectfully submitted,

Caren Lacy

By: Caren Lacy

Mail Address:

1885 Ponder Heights Drive
Colorado Springs, Colorado 80906

Phone: (719) 636-2470

Date: January 18, 1993

Silverton 391